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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/622,957	07/18/2003	John D. Norton	P-11444.00	3998
27581	7590	12/16/2004	EXAMINER	
MEDTRONIC, INC. 710 MEDTRONIC PARKWAY NE MS-LC340 MINNEAPOLIS, MN 55432-5604			HA, NGUYEN T	
			ART UNIT	PAPER NUMBER
			2831	

DATE MAILED: 12/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/622,957

Applicant(s)

NORTON ET AL.

Examiner

Nguyen T Ha

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 13-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>0803</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of group I claims 1-12 in the reply filed on 11/04/2004 is acknowledged. The traversal is on the ground(s) that the searches for group I and II would be co-extensive. This is not found persuasive because the method claims 13-24 would be classified in a different class than claims 1-12

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 4 contains the trademark/trade name NUCLEPORE®, CYCLOPORE™, ISOPORE™, PORETICS® AND MEMENTREX™ and SPI-Pore. Where a trade mark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirement of 35 U.S.C. 112, second paragraph. See Ex parte Simpson, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. A trademark or trade name is used to identify a source of goods, and not the goods themselves. Thus, a trademark or trade name does not

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identity or describe the good associated with the trademark or trade name. The examiner assume that the applicant referring to some kinds of the polymers material.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Coustier et al. (US 2002/0110732).

Regarding claim 1, Coustier et al. disclose an electrochemical cell (figure 1) comprising:

- one or more anodes (106, paragraph 0023);
- one or more cathodes (108, paragraph 0023) operatively associated with the anodes;
- an electrolyte operatively associated with the anodes and the cathodes (paragraph 0006);
- one or more separators (104, paragraph 0023) provided between the anodes and the cathodes to prevent internal electrical short circuit

conditions and to allow sufficient movement of the electrolyte within the capacitor cell; and

- one or more surfactants/binders (105, paragraph 0023) disposed on at least a portion of the one or more separators, wherein the one or more surfactants/binders enhance the wettability and absorption of the one or more separators (paragraph 0007).

Regarding claims 2-3, Coustier et al. disclose the one or more separators include one or more separator materials selected from the group consisting of polypropylene (paragraph 0024).

Regarding claim 4, as best understood, Coustier et al. disclose the one or more separators including one or more track etched materials selected from the group consisting of polymers (paragraph 0024).

Regarding claim 5, Coustier et al. disclose the one or more surfactants/binder are selected from the group consisting of polyacrylamide (paragraph 0028).

Regarding claim 6, Coustier et al. disclose the one or more separators are impregnated with the one or more surfactants/binder (paragraph 0023, figure 1).

Regarding claim 7, Coustier et al. disclose the one or more surfactants/binder are mixed with the electrolyte (paragraph 0031).

Regarding claims 8-9, Coustier et al. disclose the one or more separators being cross-linked with a cross-linked reagent, wherein the cross-linked reagent is selected from the group consisting of ester, alcohols, carbonate (paragraph 0032).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Coustier et al. (US 2002/0110732) in view of Yoshida et al. (US 6,432,572).

Regarding claims 10-12, Coustier et al. disclose all the claimed limitations with respect to claim 1 above, except for the capacitor cell being arranged in a substantially flat, coiled configuration, a cylindrical coiled configuration or a stacked configuration.

Yoshida et al. teach a battery cell in which a cylindrical coiled, flat or stacked configuration (figures 1-4).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the Coustier et al. capacitor as taught by Yoshida et al. to

have the capacitor cell/battery cell being arranged in a substantially flat, coiled configuration, a cylindrical coiled configuration or a stacked configuration, in order to facilitate for the user.

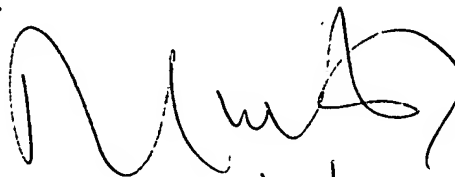
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nguyen T Ha whose telephone number is 571-272-1974. The examiner can normally be reached on Monday-Friday from 8:30AM to 6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dean Reichard can be reached on 571-272-2800 ext. 31. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nguyen T. Ha
December 6, 2004


12/6/04